

Appeal Number 14-5090

**IN THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL
CIRCUIT**

DAVID R. SMITH,

Plaintiff/Appellant

vs.

THE UNITED STATES,

Defendant/Appellee

**On Appeal from a Dismissal of Appellant's Claims in Civil Action No. 1:13-
cv-00094 in the United States Court of Federal Claims**

**MOTION FOR LEAVE TO FILE OPENING DOCUMENTS IN
HARDCOPY FILED ON BEHALF OF APPELLANT
DAVID R. SMITH**

**Phillip L. Davidson
Tennessee BPR number 6466
2400 Crestmoor Road, Suite 107
Nashville, Tennessee
615-386-7115
Attorney for Appellant**

MOTION

COMES NOW David R. Smith, Appellant herein, and moves the Court for an Order permitting him to file the requisite Docketing Statement, Certificate of Interest, and Entry of Appearance (Federal Circuit forms 26, 9, and 8, respectively) in hard copy rather than electronically.

In support of this motion, the undersigned would show the court that these forms must, by Rule, be filed electronically in a “searchable” PDF format. No Adobe™ software available to the undersigned, either in this office, the Support Services division of the office building in which the undersigned maintains his office, or at the commercial information technology firm routinely used by this office is able to accomplish this task. The undersigned has no explanation for this anomaly.

No prejudice or delay will result, and the cause of justice will best be served, by granting the relief sought herein.

The undersigned is authorized to state that consultation with the Federal Circuit Case Manager to whom this case is assigned was obtained prior to filing this motion.

The undersigned is further authorized to state that as contemplated by Federal Circuit LR27[a][5], consultation with adversary counsel Douglas Glenn Edelschick revealed that adversary counsel has no objection to the relief sought herein being granted.

Made Exhibit 1 hereto and incorporated herein by reference as if set out *verbatim* is a conformed Certificate of Interest, Federal Circuit Form 9, as required by Federal Circuit LR27[a][77].

Respectfully submitted,

/s/ Phillip L. Davidson
Tennessee BPR number 6466
2400 Crestmoor Road, Suite 107
Nashville, Tennessee
615-386-7115
Attorney for Appellant David R. Smith

CERTIFICATE

I certify that a true and correct copy of the foregoing motion has been provided both electronically as contemplated by the Local Rules of the Federal Circuit and by First Class U.S. Mail this 19th day of June, 2014, to:

Douglas Glenn Edelschick
USDOJ-Civil Division Comm. Lit.
Branch (POB)
P.O. Box 480
Ben Franklin Station
Washington, DC 20044

Bruce G. Poole
USAF
1500 West Perimeter Road
Joint Base Andrews, MD 20762

/s/ Phillip L. Davidson

EXHIBIT 1

Form 9. Certificate of Interest

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

David R. Smith v. The United States

No. 14-5090

CERTIFICATE OF INTEREST

Counsel for the appellant, David R. Smith, certifies the following:

1. The full name of every party or amicus represented by me is:

David R. Smith

2. The name of the real party in interest (if the party named in the caption is not the real party in interest represented by me is:

David R. Smith

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

None. Not applicable.

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

Phillip L. Davidson (Law Office of Phillip L. Davidson)

06/18/2014

Date

/s/ Phillip L. Davidson

Signature of counsel

Phillip L. Davidson

Printed name of counsel

Please Note: All questions must be answered

cc: Douglas Edelschick; Bruce Poole